



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:) Atty Dkt No. 001309.00059
Yojiro Kinoshita et al.)
Serial No.: 10/812,358) Confirmation No. 4108
Filed: March 30, 2004) Examiner: Erika P Garrett
For: BACKREST FOR CHAIR) Group Art Unit: 3636
)

REPLY BRIEF

Customer Service Window
401 Dulany Street
Alexandria, VA 22314

Sir:

This Reply Brief timely responds to the Examiner's Answer mailed March 20, 2007.

Status of the Claims

Claims 1, 2, 5, 7, 9, and 11-17 are pending. Claims 3, 4, 6, 8, and 10 are canceled. Claims 1, 2, 5, and 12-17, which are under appeal, stand finally rejected and are found listed in the appendix. Claims 7, 9, and 11 have been withdrawn as directed to non-elected species but would be rejoined if claim 1 is found allowable. No claim is allowed.

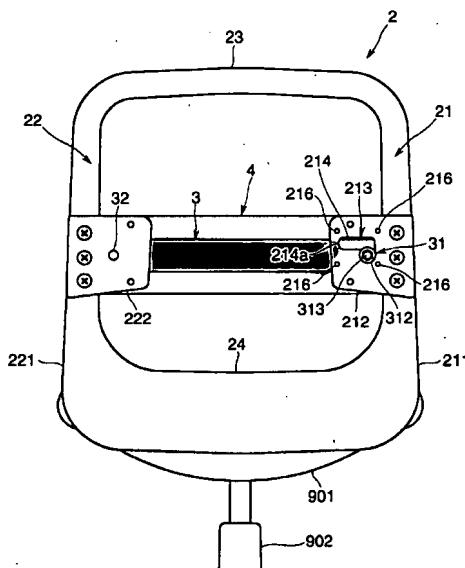
Grounds of Rejection to be Reviewed

Claims 1-2 and 12-14 stand rejected under 35 U.S.C. 102(b) as being anticipated Sheldon (U.S. 4,153,293). Claims 15-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sheldon (U.S. 4,153,293) in view of Peterson (U.S. Patent 6,220,661).

Argument

This Reply Brief is made to clarify an apparent point of confusion. In particular, from page 6 of the Examiner's Answer, it appears there is confusion about what support member is "concaved rearward." The Examiner's Answer draws arrows toward the back rest of each seat – i.e. item 21 in Appellant's Figure 3 and item 22 in Sheldon's Figure 1.

In contrast to the position in the Examiner's Answer, it is support 3 of Figure 3 that is concaved rearward, not item 21. See the blue highlighted support 3 in the figure below.



In addition, The Examiner's Answer ignored the language "frame elements arranged in pairs at *right* and *left* sides" and "a flexible support member that *bridges* the frame elements to support a load of a body of a seated person." Item 22 does not bridge right and left sides. Instead support 3 bridges frame elements 21 and 22. (See also Figures 14, 15, and 16 which show variations of support 3).

The figure on the left below shows a side view of the backrest with the flexible support member (3) in a flat or non-flexed position and the figure on the right shows a side view of the backrest with the flexible support member (3) in a flexed position wherein the flexible support member 3 is bent concaved rearward. It is not item 21, but support member 3, that is concaved

rearward. Item 21 is a side frame element.

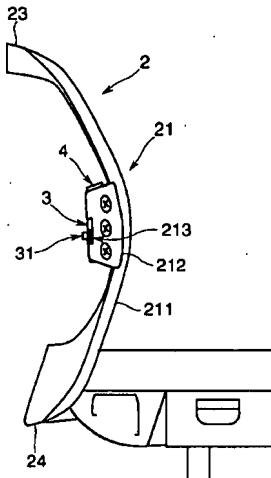


Fig. 8

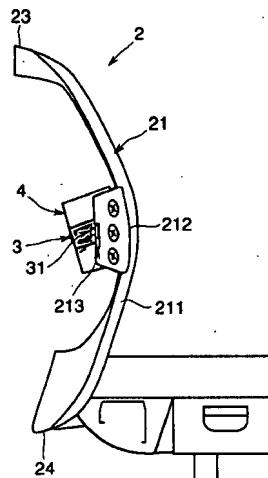
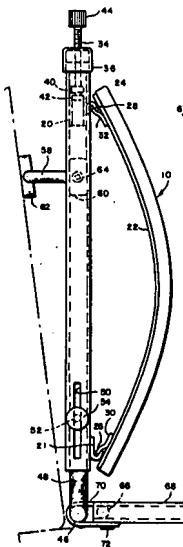


Fig. 7

Thus support 3 cradles the back of a person sitting in the seat.

Sheldon describes a back support that adjusts between the top and bottom frame members. (Not left and right sides). The top of the back support is moved downward so that the backrest is bowed "convexly forwardly with respect to the frame."



The backrest adjusts forward against the back providing a lumbar-type support (which is completely opposite to the cradling type support achieved by the concaved rearward support of the instant claims. See yellow highlighted area.

Reversal of the rejections is respectfully requested.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Date: May 8, 2007

By: 
Susan A. Wolffe
Registration No. 33,568

Customer No. 22907

1001 G Street, N.W.
Washington, DC 20001-4597
(202) 824-3000 (telephone)
(202) 824-3001 (facsimile)